THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 21116 of 2005

Dated: 29.09.2005

Between:

B.V.Raghava Reddy S/o. B.Haumantha Reddy
R/o. 10-104-13 J.N.Colony
Markaput Prakasm Disrict.

..... PETITIONER

AND

The Joint Collector
Prakasam District at Ongole and others.

…..RESPONDENTS

ORDER:

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This writ petition is filed questioning the proceedings of the second respondent-Revenue Divisional Officer, Markapur, dated 06.09.2005, whereunder the dealership of the petitioner for fair price shop was suspended.

Learned counsel for the petitioner contended that initiation of proceedings against the petitioner under the Control orders is entirely different from initiation of proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short "the Act") and the dealership of the petitioner has been suspended till the disposal of the proceedings initiated under Section 6-A of the Act, and for that proposition he relied upon the decisions of this Court in the case of ***P.Lakshminarasaiah Vs The Joint Collector, Cuddapah*** and in the case of ***B.Satyanarayana Vs. The Joint***

Collector (CS) .

On the other hand, learned Government Pleader for Civil Supplies appearing for the respondents contended that under the A.P. State Public Distribution System Control Order, 2001 (for short "the Control Order, 2001") the dealership can be suspended pending enquiry and therefore, there are no grounds to interfere with the impugned proceedings.

In the decision relied upon by the learned counsel for the petitioner in the case of B.Satyanarayana (2 supra), it was held as under:

> "The power of cancelling the authorisation is confined to the Revenue Divisional officer. It is for him to issue a show cause notice setting out the specific charges and to take a decision after considering the explanation submitted by the dealer. The concerned statutory authority on whom the power is conferred has to act independently and objectively without being simply led away by the findings given in the Section 6-A proceedings under Essential Commodities Act. The findings in the order passed under Section 6-A may be relevant to some extent and it can perhaps be relied upon, but that is not conclusive. The Revenue Divisional Officer who is a different statutory authority exercising power under Caluse 3(4) has to take an independent decision in the matter instead of mechanically following the orders under Section 6-A of the Essential commodities Act. This essential distinction has not been kept in mind by the Revenue Divisional Officer and the Joint Collector. The impugned order passed by the RDO virtually amounts to abdication of power vested in him to another authority, may be a superior administrative authority exercising powers under a different enactment. That cannot be permitted to be done according to the well established principles of Administrative Law. On this ground also, the impugned orders are liable to be set aside."

No doubt the above decision makes it clear that the Revenue Divisional Officer, who is a different statutory authority exercising power under Clause 3(4) of the Control Order, 2001, has to make an independent decision in the matter instead of mechanically following the order passed under Section 6-A of the Act. In this case the Mandal Revenue Inspector conducted inspection of the petitioner's premises on 27.08.2005, and found certain irregularities and thereafter he conducted a panchanama and registered a case under Section 6-A of the Act and when it was referred to the Joint Collector of Prakasam District, the Joint Collector directed the Revenue Divisional Officer to take appropriate action. The Revenue Divisional

Officer by proceedings dated 06.09.2005 temporarily suspended the dealership of the petitioner pending proceedings before the Joint Collector.

It is contended by the learned counsel for the petitioner that the Joint Collector, who is the appellate authority over the orders of the Revenue Divisional Officer, cannot give such a direction. I am unable to accept the contention of the learned counsel for the petitioner because when a case is registered under Section 6-A of the Act and when it was referred to the Joint Collector, the Joint Collector directed the Revenue Divisional Officer to take appropriate action against the petitioner. Under the Control Order 2001, the authorisation shall be liable to be suspended or cancelled, as the case may be, if the fair price shop dealer is involved in any criminal case or if any case under the Essential Commodities Act or any other Act is pending against him. Under clause 6 of the Control Order 2001, an appeal is directed to the Joint Collector over the order passed by the Revenue Divisional Officer or Sub-Collector. Therefore, the decision relied upon by the learned counsel for the petitioner is rendered under Clause 3(4) of the Andhra Pradesh Scheduled Commodities (Regulation and Distribution by Card System) order, 1973. The authorisation of the petitioner was suspended based on the Control Order, 2001. A clause is specifically provided under the Control Order 2001 for suspension or cancellation of the authorisation if the fair price shop dealer is involved in any criminal case or even in any case under the Essential Commodities Act.

Therefore, a direction cannot be given to the respondents to act contrary to the control orders. As already stated above, the decisions relied upon by the learned counsel for the petitioner has no application to the present facts of the case in view of the fact that those cases are rendered under the old control orders. But under the new control orders, even when a case is registered under the Essential Commodities Act, the authorisation can be suspended pending enquiry. Hence, no legal right of the petitioner is infringed, so as to give a notice to him before suspending his authorisation. Therefore, the question of violation of principles of natural justice does not arise. The jurisdiction of the authority, who passed the impugned order is not under challenge. An effective remedy is available to the petitioner by way of appeal.

In view of the above facts and circumstances of the case, I deem it appropriate to dispose of the writ petition directing the Revenue Divisional Officer to complete the enquiry within a period of four weeks from the date of receipt of a copy of this order

after giving reasonable opportunity to the petitioner.

With the above direction, the writ petition is disposed of. No costs.

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29.09.2005

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